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101ST CONGRESS
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SENATE

REPORT
101-61

AUTHORIZING THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS IN IDAHO TO MR. AND MRS. KENNETH BLEVINS OF KUNA, IDAHO

JULY 6 (legislative day, JANUARY 3), 1989.—Ordered to be printed

Filed under authority of the order of the Senate of June 22 (legislative day, January 3), 1989

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 267]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 267) to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, Idaho, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 2, line 2 strike "Southeast Quarter (E½SL¼)" and insert in lieu thereof, "Southeast Quarter (E½SE¼)".

PURPOSE OF THE MEASURE

The purpose of S. 267 is to direct the Secretary of the Interior to convey 80 acres of land in Kuna, Idaho to Mr. and Mrs. Kenneth Blevins.

BACKGROUND AND NEED

The Blevins family has maintained an 80-acre tract of sagebrush land in Ada County, Idaho continuously since 1961. The parcel was originally half of a 160-acre reclamation homestead entry filed in 1904 in connection with the Boise Valley Reclamation Project. The western half of the homestead entry was patented in 1919. The

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eastern half of the entry, the land to be conveyed to the Blevins, was never patented. To be eligible for patent, at least one-half of the land must be irrigated with project water. Although part of the eastern half of the property was cultivated through natural irrigation, most of the land was high ground above the Project's irrigation canals, thus making the land not eligible for patent.

In 1929, the 80-acre tract was erroneously quitclaim deeded to a private party by an Ada County probate judge. Martin Blevins, the father of Kenneth Blevins, purchased the portion of the property that was above the high lateral from the Boise-Kuna Irrigation District in 1941. The District has acquired the land for delinquent taxes. Martin Blevins purchased the remainder of the 80 acres in 1961 from the previous owner, receiving a bargain and sale deed. In 1973, Martin Blevins conveyed the entire 80 acres to the current owners, Kenneth and Norma Blevins, by warranty deed.

Because the 80 acres was never patented, the land remains under a Bureau of Reclamation withdrawal. All homestead laws were repealed or phased out when the Federal Land Policy and Management Act (FLPMA) was enacted in 1976. Because less than half of the land was irrigated prior to the enactment of FLPMA, the land does not qualify for a patent from the Bureau of Reclamation as a reclamation homestead entry. Similarly, the Bureau of Land Management no longer has the authority to issue a patent for homestead lands.

The Blevins family has paid property taxes continuously since purchasing the parcels in 1941 and 1961. Under the Color of Title Act, 43 U.S.C. 1068, the party seeking title must have made a continuous claim of color of title for at least 20 years and valuable improvements must have been made on the property or part of the property has been reduced to cultivation. Because this property satisfies those requirements, it is the view of the Committee that the conveyance should be made for no consideration.

SUMMARY OF THE MEASURE

S. 267 directs the Secretary of the Interior to convey, without consideration and by quitclaim deed, 80 acres of land in Ada County, Idaho to Kenneth and Norma Blevins of Kuna, Idaho. The United States will retain all oil, gas and mineral rights in the property.

LEGISLATIVE HISTORY

S. 267 was introducted by Senators Symms and McClure on January 25, 1989. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 267 on May 18, 1989.

At the business meeting on June 21, 1989, the Senate Committee on Energy and Natural Resources ordered S. 267, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 21, 1989, by a majority vote of a quorum present, recommends that the Senate pass S. 267 if amended, as described herein.

The rollcall vote on reporting the measure was 18 yeas, 1 nay, as follows:

YEAS	NAYS
Mr. Johnston	Mr. Wallop
Mr. Bumpers	
Mr. Ford*	
Mr. Metzenbaum	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Conrad*	
Mr. Heflin	
Mr. Rockefeller*	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici	
Mr. Murkowski	
Mr. Nickles*	
Mr. Burns	
Mr. Garn	
Mr. McConnell*	

*Indicates voted by proxy.

COMMITTEE AMENDMENT

During the consideration of S. 267, the Committee adopted a technical amendment which corrects a typographical error in the legal description of the land to be conveyed.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 27, 1989.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 267, a bill to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, Idaho. The bill was ordered reported by the Senate Committee on Energy and Natural Resources on June 21, 1989. We estimate that enactment of S. 267 would result in no significant cost to the federal government and in no cost to state and local governments.

S. 267 would convey 80 acres of federal land in Ada County, Idaho to the Blevin family, which has occupied and paid taxes on the land since 1961. The land, which was originally occupied in 1904 by homesteaders, has been mistakenly assumed to be privately owned for many years. While the surface rights would be con-

veyed to the Blevin family, the United States would retain title to any oil, gas, and other mineral deposits on the land.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 267. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 267, as reported.

EXECUTIVE COMMUNICATIONS

On May 5, 1989, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 267. These reports had not been received at the time the report on S. 267 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Bureau of Land Management at the Subcommittee hearing follows:

STATEMENT OF ROBERT F. BURFORD, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to appear here today to discuss the views of the Department of the Interior on S. 267.

S. 267 would direct the Secretary of the Interior to convey to Mr. and Mrs. Blevins, by quitclaim deed or other appropriate instrument, and without consideration, title to approximately 80 acres of public land in Ada County, Idaho. Oil, gas, and other mineral deposits would be reserved to the United States.

This is our understanding of the facts leading to the introduction of this bill. In 1904, a Reclamation Homestead entry was filed on 160 acres, including the 80 acres that are the subject of this bill. The westerly 80 acres of the tract was patented in 1919. However, the easterly 80 acres, now occupied by the Blevins, was never patented and is still under a Bureau of Reclamation withdrawal. In November 1929, that 80-acre tract was quitclaimed to a private party by the Ada County probate judge. Apparently the tract's status as a reclamation homestead was overlooked and the tract was assumed to be in private ownership. In 1961, the unpatented 80-acre tract was transferred to Kenneth Blevins' father, and in 1973, Kenneth Blevins received a warranty deed to this tract from

his father. The Blevins family has occupied the 80-acre parcel since 1961 and has paid property taxes.

Administrative remedies are not available for resolution of the matter by either the Bureau of Land Management or the Bureau of Reclamation.

We would have no objection to enactment of S. 267 if amended as we suggest.

S. 267 makes no provision for payment for the tract or for payment of administrative costs which we believe should be borne by the benefactors—Mr. and Mrs. Blevins. No benefits enure to the United States. Since the bill provides for conveying all right, title and interest of the United States, the document of conveyance would, of course, be subject to any valid existing right that may appertain to the lands.

The legal description on line 2, page 2, contains an error. It should read, "E½SE¼."

This concludes my prepared statement. I will be pleased to answer questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 267, as reported.

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